

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ANGELA MYERS,

Plaintiff,

v.

Case No. 2:12-cv-03040

REGIONS MORTGAGE,

Defendant.

**REPORT AND RECOMMENDATION ON PLAINTIFF’S MOTION TO DISMISS CASE
AND DEFENDANT’S MOTION TO DISMISS CASE**

Before the Court are Plaintiff’s Motion to Dismiss Case (Docket Entry “D.E.” #14) and Defendant’s Motion to Dismiss Case (D.E. #7). The instant motions were referred to the United States Magistrate Judge for Report & Recommendation. (D.E. #16).

Upon review, Plaintiff’s Motion to Dismiss Case states that she wants to dismiss her case of her “own free will” because she is “unable to secure proper legal counsel at this time.” Rule 41(a)(1)(A) provides that a plaintiff may voluntarily dismiss her case without a court order by filing either (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment, or (ii) a stipulation of dismissal signed by all parties who have appeared. Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii). Such a dismissal is without prejudice unless the plaintiff has previously dismissed any federal- or state-court action based on or including the same claim, in which case the dismissal operates as an adjudication on the merits. Fed. R. Civ. P. (a)(1)(B).

In the instant case, Plaintiff filed her “Motion to Dismiss Case” before the opposing party

filed either an answer or a motion for summary judgment. Thus, it is recommended that Plaintiff's Complaint be dismissed pursuant to Rule 41(a)(1)(A). As there is no information before the Court that Plaintiff has previously dismissed any federal- or state-court action based on or including the same claim, it is recommended that the dismissal be without prejudice pursuant to Rule 41(a)(1)(B). Finally, as it is recommended that Plaintiff's Complaint be dismissed, it is recommended that Defendant's Motion to Dismiss be denied as moot.

DATED this 24th day of May, 2013.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.